



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER POLLUTION CONTROL
401 Church Street
L&C Annex 6th Floor
Nashville, TN 37243-1534

July 17, 2008

Mr. Nick Psillas, Registered Agent
Corinthian Custom Homes, Inc.
512 Autumn Springs Court
Suite c
Franklin, TN 37064

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT #7007 2560 0003 3385 7749

Subject: DIRECTOR'S ORDER NO. WPC08-0160
KINGWOOD COMMUNITY SUBDIVISION
WILLIAMSON COUNTY, TENNESSEE

Dear Mr. Psillas:

Enclosed is a Director's Order and Assessment of Civil Penalty issued by Paul E. Davis, Director of the Division of Water Pollution Control, under the delegation of Commissioner James H. Fyke. Read the Order carefully and pay special attention to the NOTICE OF RIGHTS section.

Corporations, limited partnerships, limited liability companies, and other artificial entities created by law must be represented in any legal proceeding resulting from an appeal of this Order and Assessment by an attorney licensed to practice law in the State of Tennessee. Non-attorneys may participate in any such proceedings to the extent allowed by law.

If you or your attorney has questions concerning this correspondence, contact Stephanie Fisher at (615) 532-3634.

Sincerely,

Patrick N. Parker, Manager
Enforcement and Compliance Section

PNP:SJF

cc: DWPC – EFO-Nashville
DWPC – Compliance File
OGC

IN THE MATTER OF:)	
)	
CORINTHIAN CUSTOM HOMES, INC.)	
)	DIVISION OF WATER
)	POLLUTION CONTROL
)	
RESPONDENT)	
)	CASE NUMBER WPC08-0160
)	

JURISDICTION

III.

Whenever the commissioner has reason to believe that a violation of Tennessee Code Annotated (T.C.A.) § 69-3-101 *et seq.*, the Water Quality Control Act (the “Act”), has occurred, or is about to occur, the commissioner may issue a complaint to the violator and the commissioner may order corrective action be taken pursuant to T.C.A. § 69-3-109(a) of the Act. Further, the commissioner has authority to assess civil penalties against any violator of the Act, pursuant to T.C.A. § 69-3-115 of the Act; and has authority to assess damages incurred by the state resulting from the violation, pursuant to T.C.A. § 69-3-116 of the Act. Department rules governing general water quality criteria and use classifications for surface waters have been promulgated pursuant to T.C.A. § 69-3-105 and are effective as the *Official Compilation Rules and Regulations of the State of Tennessee*, Chapters 1200-4-3 and 1200-4-4 (the “Rule”). Pursuant to T.C.A. § 69-3-107(13), the commissioner may delegate to the director any of the powers, duties, and responsibilities of the commissioner under the Act.

IV.

The Respondent is a “person” as defined by T.C.A. § 69-3-103(20) and as herein described, has violated the Act.

V.

Tennessee Code Annotated § 69-3-108 requires a person to obtain coverage under a permit from the department prior to discharging any substances to waters of the state, or to a location from which it is likely that the discharged substance will move into waters of the state. Coverage under the general permit for Storm Water Discharges Associated with Construction Activity (hereinafter the “TNCGP”) may be obtained by submittal of a Notice of Intent (NOI), a site specific Storm Water Pollution Prevention Plan (SWPPP), and appropriate fee.

VI.

Hunting Camp Creek, described herein, is “waters of the state” as defined by T.C.A. § 69-3-103(33). Pursuant to T.C.A. § 69-3-105(a)(1), all waters of the state have been classified by the Tennessee Water Quality Control Board for suitable uses. Department Rule 1200-4-4, *Use Classifications for Surface Waters*, is contained in the *Rules of Tennessee Department of Environment and Conservation Division of Water Pollution Control Amendments*. Accordingly, these waters of the state are classified for the following uses: fish and aquatic life, recreation, irrigation, livestock watering and wildlife.

FACTS

VII.

On September 27, 2007, the division received a complaint that the site was causing soil to wash off the site and enter Hunting Camp Creek.

VIII.

On October 2, 2007, division personnel conducted a complaint investigation at the site. Land disturbing activities that had been part of a larger common plan of development or sale that was at least one acre in size had been performed at the site. Erosion Prevention Sediment Control (EPSC) measures had been installed; however, the measures had not been maintained. Sediment had overtopped the silt fence allowing sediment to discharge into Hunting Camp Creek.

A file review indicated that coverage under the TNCGP and had not been requested or issued for these activities.

IX.

On October 4, 2007, the division issued a Notice of Violation (NOV) to the Respondent for the violations noted during the October 2, 2007, complaint investigation. The division requested that the Respondent stabilize the site with adequate EPSC measures, and submit a NOI, SWPPP, and appropriate fee for coverage under the TNCGP.

X.

On May 5, 2008, division personnel conducted a site inspection and noted that EPSC measures continued to be inadequate allowing sediment to enter Hunting Camp Creek. The requested NOI, SWPPP, and appropriate fee for coverage under the TNCGP had not been received by the division as of this date.

XI.

On June 17, 2008, division personnel conducted a site inspection and noted that EPSC measures continued to be inadequate allowing sediment to enter Hunting Camp Creek. The requested NOI, SWPPP, and appropriate fee for coverage under the TNCGP had not been received by the division as of this date.

XII.

On July 3, 2008, the division issued a Notice of Violation (NOV) to the Respondent for the violations noted during the May 5, 2008, and June 17, 2008, site inspections. The division requested that the Respondent stabilize the site with adequate EPSC measures, and submit a NOI, SWPPP, and appropriate fee for coverage under the TNCGP.

XIII.

During the course of investigation the division incurred DAMAGES in the amount of TWO HUNDRED SEVENTY FOUR DOLLARS AND SIXTY FIVE CENTS (\$274.65).

VIOLATIONS

XIV.

By conducting land disturbance activities without coverage under the TNCGP, the Respondent has violated T.C.A. §§ 69-3-108(b) and 114(b), which state in part:

§ 69-3-108(b):

It is unlawful for any person, other than a person who discharges into a publicly owned treatment works or a person who is a domestic discharger into a privately owned treatment works, to carry out any of the following activities, except in accordance with the conditions of a valid permit:

- (1) The alteration of the physical, chemical, radiological, biological, or bacteriological properties of any Waters of the State;
- (4) The development of a natural resource or the construction, installation, or operation of any establishment or any extension or modification thereof or addition thereto, the operation of which will or is likely to cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical, radiological, biological or bacteriological properties of any waters of the state in any manner not already lawfully authorized;
- (6) The discharge of sewage, industrial wastes or other wastes into waters, or a location from which it is likely that the discharged substance will move into waters;

§ 69-3-114(b):

In addition, it is unlawful for any person to act in a manner or degree which is violative of any provision of this part or of any rule, regulation, or standard of water quality promulgated by the board or of any permits or orders issued pursuant to the provisions of this part; or fail or refuse to file an application for a permit as required in § 69-3-108; or to refuse to furnish, or to falsify any records, information, plans, specifications, or other data required by the board or the Commissioner under this part.

ORDER

XV.

WHEREFORE, pursuant to the authority vested by T.C.A. §§ 69-3-109, 69-3-115 and 69-3-116, I, Paul E. Davis, hereby issue the following ORDER and ASSESSMENT to the Respondent.

1. The Respondent shall, within 7 days of receipt of this ORDER and ASSESSMENT, submit a NOI, SWPPP, and appropriate fee in order to obtain coverage under the TNCGP for construction activities at the site. These documents should be submitted to the manager of the Division of Water Pollution Control located at the Nashville Environmental Field Office, 711 R. S. Gass Boulevard, Nashville, Tennessee 37243.
2. The Respondent shall implement appropriate EPSC measures to ensure that no eroded material leaves the site and enters waters of the state. Photo documentation that EPSC measures have been implemented is to be sent within 15 days of receipt of this ORDER and ASSESSMENT to the manager of the Division of Water Pollution Control located at the address listed in item 1.
3. The Respondent shall maintain appropriate EPSC measures to ensure that no additional material leaves the site and enters waters of the state. The EPSC measures shall be maintained until land disturbance activities are complete and permanent erosion-preventive vegetative cover is established.

4. The Respondent shall, within 30 days of receipt of this ORDER and ASSESSMENT pay DAMAGES to the division in the amount of TWO HUNDRED SEVENTY FOUR DOLLARS AND SIXTY FIVE CENTS (\$274.65) within 30 days of receipt of this ORDER.
5. The Respondent shall pay a CIVIL PENALTY of NINE THOUSAND DOLLARS (\$9,000.00) to the division, hereby ASSESSED to be paid as follows:
 - a. The Respondent shall, within 30 days of receipt of this ORDER and ASSESSMENT, pay a CIVIL PENALTY in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00).
 - b. If the Respondent fails to comply with Part XV, item 1 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of TWO THOUSAND DOLLARS (\$2,000.00), payable within 30 days of default.
 - c. If the Respondent fails to comply with Part XV, item 2 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of TWO THOUSAND DOLLARS (\$2,000.00), payable within 30 days of default.
 - d. If the Respondent fails to comply with Part XV, item 3 above in a timely manner, the Respondent shall pay a CIVIL PENALTY in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00), payable within 30 days of default.

The Respondent shall otherwise conduct business in accordance with the Act and rules promulgated pursuant to the Act.

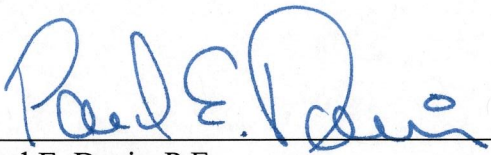
The director may, for good cause shown, extend the compliance dates contained within this ORDER and ASSESSMENT. In order to be eligible for this time extension, the Respondent

shall submit a written request to be received in advance of the compliance date. The written request must include sufficient detail to justify such an extension and include at a minimum the anticipated length of the delay, the precise cause or causes of the delay, and all preventive measures taken to minimize the delay. Any such extension by the division will be in writing. Should the Respondent fail to meet the requirement by the extended date, any associated Civil Penalty shall become due 30 days thereafter.

Further, the Respondent is advised that the foregoing ORDER and ASSESSMENT is in no way to be construed as a waiver, expressed or implied, of any provision of the law or regulations. However, compliance with the ORDER and ASSESSMENT will be one factor considered in any decision whether to take enforcement action against the Respondent in the future.

Issued by the director of the Division of Water Pollution Control on behalf of the Commissioner of the Tennessee Department of Environment and Conservation on this

17 day of July 2008.



Paul E. Davis, P.E.
Director, Division of Water Pollution Control

NOTICE OF RIGHTS

Tennessee Code Annotated §§ 69-3-109, 115, allow the Respondent to secure review (appeal) of this ORDER and ASSESSMENT. To do so, a written petition setting forth the grounds (reasons) for requesting a hearing before the Water Quality Control Board must be

RECEIVED by the Department within THIRTY (30) DAYS of the date the Respondent received this ORDER and ASSESSMENT or it will become final (not subject to review).

Artificial Respondents (corporations, limited partnerships, limited liability companies, etc.) cannot carry-on the practice of law. They may secure review (appeal) before the Water Quality Control Board only through an attorney licensed to practice law in Tennessee. Natural Respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at no cost or reduced cost through a local bar association or legal aid organization.

Any hearing of this case before the Board will be a contested case hearing governed by T.C.A. § 4-5-301 *et seq.* (the Uniform Administrative Procedures Act) and the Department of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies. Such hearings are in the nature of a trial before the Board sitting with an Administrative Law Judge. The Respondent may subpoena witnesses to testify.

At the conclusion of a hearing the Board has the authority to affirm, modify, or deny the Order and Assessment. This includes the authority to modify the penalty within the statutory confines (up to \$10,000.00 per day per violation). Furthermore, the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of an administrative law judge and a court reporter.

Any petition to appeal which is filed should be sent to: Appeal of an Enforcement Order, TDEC-OGC, 20th Floor L & C Tower, 401 Church Street, Nashville, TN 37243-1548. Payments of the civil penalty shall be made payable to the "Treasurer, State of Tennessee," and sent to the Division of Fiscal Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, 14th Floor L&C Tower, 401 Church Street, Nashville,

Tennessee 37243. All other correspondence shall be sent to Paul E. Davis, Director, Division of Water Pollution Control, Tennessee Department of Environment and Conservation, 6th Floor Annex, 401 Church Street, Nashville, TN 37243. The case number should be written on all correspondence regarding this matter.